



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APPROVED
MINUTES

The Montgomery County Planning Board met in regular session on Thursday, June 18, 2009, at 9:15 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:35 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioners Joe Alfandre and Jean Cryor. Commissioner Amy Presley joined the meeting at 9:30 a.m., prior to Item 5.

Items 1 through 5 are reported on the attached agenda. Item 5 was continued into the afternoon session.

The Board recessed at 12:05 p.m. for lunch and to take up Item 13 in Closed Session. Closed Session Item 12 was postponed and Closed Session Item 14 was taken up at the end of the afternoon session.

In compliance with §10-509(c)(2), State Government Article, Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session at 12:30 p.m. in the third floor conference room, on motion of Commissioner Alfandre, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Alfandre, Cryor, and Presley present and voting in favor of the motion. Commissioner John Squire of the Prince George's Planning Board joined the meeting at 1:10 p.m. The meeting was closed under authority of §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were General Counsel Adrian Gardner; Abinet Belachew of the Finance Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board received a briefing and consulted with legal counsel on public security systems.

The Closed Session was adjourned at 1:55 p.m. and the Board reconvened in open session in the third floor conference room.

The Board reconvened at 2:05 p.m. in the auditorium with four Commissioners present. Commissioner Presley left the meeting prior to the afternoon session.

Before starting the afternoon session, The Commission's General Counsel, Adrian Gardner, announced the appointment of Carol Rubin as Associate General Counsel for the Montgomery County Legal Office.

Items 7 through 10 are reported on the attached agenda. Closed Session Item 14 was taken up following the afternoon, as reported below.

In compliance with §10-509(c)(2), State Government Article, Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board reconvened in Closed Session at 5:30 p.m. in the auditorium, on motion of Vice Chair Robinson seconded by Commissioner Cryor with Chairman Hanson, Vice Chair Robinson, and Commissioners Cryor, and Alfandre present and voting in favor of the motion. Commissioner Presley was necessarily absent. The meeting was closed under authority of §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were Associate General Counsels Carol Rubin, David Lieb, and Christina Sorrento of the Legal Department; and Clara Moise of the Commissioners' Office.

In Closed session the Board received briefing from Legal Counsel regarding the status of the pending Mardirossian case against the late Wayne Goldstein.

The Closed Session was adjourned at 5:45 p.m. and the Board reconvened in open session in the auditorium.

The Board recessed for dinner at 5:45 p.m. and reconvened in the auditorium at 7:30 p.m. for a presentation by Mr. Ronald Kirby from the Metropolitan Washington Council of Governments as part of the Speaker Series.

There being no further business, the meeting was adjourned at 9:35 p.m. The next regular meeting of the Planning Board will be held Thursday, June 25, 2009, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 18, 2009
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Adoption of Opinions/Resolutions

A. Rolling Acres Site Plan 820090040, Lots 1-10, Parcels A & B, Block 2, ADOPTION OF MCPB RESOLUTION No. 09-63

B. Sullivan Property Pre-Preliminary Plan 720080150, ADOPTION OF MCPB RESOLUTION No. 09-64

C. Correction to Clarksburg Town Center Project Plan Amendment #91994004B

D. Correction to Clarksburg Town Center Preliminary Plan Amendment #11995042A

E. Correction to Clarksburg Town Center Site Plan #820070220

BOARD ACTION

**Motion: A, B. ALFANDRE/CRYOR
 C, D, E. ALFANDRE/CRYOR**

Vote:

**Yea: A, B. 4-0
 C, D, E. 4-0**

Nay:

Other: PRESLEY ABSENT

**Action: A, B. Adopted Board Resolutions listed as A and B, above.
 C, D, E. Adopted the Corrections to Board Resolutions listed as C, D, and E,
above.**

2. Record Plats

Subdivision Plat No. 220090910, Bradley Farms RE-2 zone; 1 lot; located on the north side of River Road (MD 190), 250 feet west of Harrington Road; Potomac.

Staff recommendation: Approval

Subdivision Plat No. 220090990, Russell Property RDT zone; 1 lot; located on the south side of Whites Ferry Road (MD 107), approximately 1,000 feet west of Sugarland Road; Agriculture and Rural Open Space.

Staff recommendation: Approval

Subdivision Plat No. 220091090, Dufresne Overlook RDT zone; 3 lots; located on the west side of Georgia Avenue (MD 97), approximately 3,500 feet south of New Hampshire Avenue (MD 650); Olney.

Staff recommendation: Approval

BOARD ACTION

Motion: **1. ROBINSON/ALFANDRE**
 2. ROBINSON/ALFANDRE

Vote:
 Yea: **1. 4-0**
 2. 4-0

Nay:

Other: **PRESLEY ABSENT**

Action: **1. Approved the staff recommendation to approve the record plats for Bradley Farms and the Russell property, as stated above.**

2. Following a brief presentation by Legal Counsel to the Board, approved the staff recommendation to approve the record plat for Dufresne Overlook, as stated above, noting that if the Court of Special Appeals vacates the Circuit Court order to approve the plat, the plat will be revoked.

3. Consent Items

A. Resolution of Adoption of Amendment to the Master Plan for Historic Preservation: Wild Acres, 5400 Grosvenor Lane, #30/15 Designates 1 individual site on the Master Plan for Historic Preservation

Staff recommendation: Approval to Transmit Resolution to full Commission

B. Resolution of Adoption of Amendment to the Master Plan for Historic Preservation: Falklands Apartments, Vicinity of 16th St and Colesville Rd, #36/12 Designates 1 individual site on the Master Plan for Historic Preservation

Staff recommendation: Approval to Transmit Resolution to full Commission

C. Request for Reconsideration for Mill Creek South Subdivision Preliminary Plan Amendment 11991069A (Previously Item 6) To amend the conservation easement due to the State Highway Administration Intercounty Connector (ICC) Project

Staff recommendation: Recommend that the Board grant reconsideration for the Mill Creek South Preliminary Plan Amendment

BOARD ACTION

Motion: CRYOR/ROBINSON

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved the Consent Items as stated above.

MCPB, 6-18-09, APPROVED

4. Approval of Minutes

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved the minutes of May 14 and 18, 2009, as presented.

5. Worksession #12: White Flint Sector Plan – Review Final Draft

Staff recommendation: Discussion

(No Public Testimony will be taken)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed and provided guidance to staff.

Following a presentation by Community-Based Planning, the Board discussed the proposed funding mechanisms, tax increment financing and a special assessment district; the staging plan; and the relationship between the two. There was considerable discussion of balancing needs and resources, ensuring that essential infrastructure and other elements of the sector plan are implemented as needed, and the distinction between which items must be implemented—as opposed to desired to be implemented—before new development can take place. There was also some discussion of the timing of several specific items, such as the police/fire station and the library, and to which phase of staging they belong.

At the Board's request, staff updated the staging plan, including prerequisites and phasing, to reflect the Board's discussion, for distribution following the lunch recess, at which time additional discussion ensued.

Mr. Gary Stith, representing the County Executive, participated in the discussion.

Messrs. Donald Briggs and Evan Goldman of Federal Realty Investment Trust offered comments on staging issues, affordable housing, and density, at the Board's request.

12. Closed Session

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508 (a) (13) to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter (Approval of Closed Session Minutes)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

13. Closed Session

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508 (a) (7) to consult with legal counsel to obtain legal advice and discuss public security systems

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed in Closed Session. See State citation and open session report in narrative minutes.

14. Closed Session

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508 (a) (7) to consult with legal counsel to obtain legal advice

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed in Closed Session. See State citation and open session report in narrative minutes.

7. **Work Session #1 Housing Element of the General Plan
(No Public Testimony will be taken)**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received multi-media presentation from Research & Technology and Transportation Planning Divisions staff followed by Board discussion.

8. **Preliminary Plan 12002056A and Site Plan Amendment Review No. 82005008B ,
Wendy's Colesville**

A. Preliminary Plan 12002056A, Wendy's Colesville

C-1 zone; 0.54 acres; 1 lot previously approved for 10,192 square feet of office use; request for a change to 2,552 square feet of restaurant use with a drive-through; located in the southeast quadrant of the intersection of Vital Way and Randolph Road; White Oak.

Staff recommendation: Approval with conditions

B. Site Plan Amendment Review No. 82005008B, Wendy's Colesville

C-1 zone; 0.54 acres; amendment; to replace an approved 10,192 square foot commercial office building with a 2,552 square foot Wendy's restaurant with drive-thru; located at the southeast quadrant of the intersection of Vital Way and Randolph Road; White Oak

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: **A. ROBINSON/HANSON**
 B. ROBINSON/HANSON

Vote:

Yea: **A. 4-0**

B. 4-0

Nay:

Other: **PRESLEY ABSENT**

Action: **A. Approved proposed Preliminary Plan Amendment, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.**

B. Approved proposed Site Plan Amendment, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.

Development Review Division staff presented the proposed Site Plan Amendment to replace an approved 10,192 square foot commercial office building with a 2,552 square foot Wendy's restaurant with drive-thru on a .054-acre property located at the southeast quadrant of the intersection of Vital Way and Randolph Road in White Oak, as discussed in detail in the June 2 technical staff report. Staff noted that a Preliminary Plan and a related Special Exception request were approved by the Board on May 28, 2009. Staff also distributed and discussed a list of revised conditions.

Ms. Debra Boron, representing the applicant, introduced members of the applicant's team, briefly discussed the proposed revised conditions, and concurred with the staff recommendation

Mr. Richard McCluskey of Two Farm Drive and representing the Greater Colesville Citizens Association offered testimony.

There followed a brief Board discussion with questions to staff and the applicant's representatives.

9. Preliminary Plan No. 11999043C and Limited Site Plan Amendment No. 82001025C, Fishers Place at Twinbrook Metro

A. Preliminary Plan No. 11999043C, Fisher's Place at Twinbrook Metro

I-1 zone; 11.82 acres; 4 lots previously approved for 401,000 square feet of R&D use, 306,200 square feet of office use, and 8,000 square feet of retail use; request to modify the mix of uses to 288,105 square feet of R&D use, 405,635 square feet of office use, and 5,540 square feet of retail; located on Fishers Lane, 300 feet southeast of Twinbrook Parkway; North Bethesda-Garrett Park and Twinbrook Sector Plan.

Staff recommendation: Approval with conditions

B. Limited Site Plan Amendment No. 82001025C, Fishers Place at Twinbrook Metro

I-1 zone; 11.82 acres; amendment to convert 256,000 gross square feet of R & D to office; located on Fishers Place southeast of Twinbrook Parkway; Twinbrook

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: **A. ALFANDRE/ROBINSON**
 B. ROBINSON/ALFANDRE

Vote:

Yea: **A. 3-1**
 B. 3-1

Nay: **A. CRYOR**
 B. CRYOR

Other: **PRESLEY ABSENT**

Action: **A. Approved staff recommendation for approval of the Amended Preliminary Plan, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.**

B. Approved staff recommendation for approval of the proposed Site Plan amendment, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.

In keeping with the June 9 technical staff report. Development Review Division staff presented a proposed Preliminary Plan and Site Plan Amendment for four previously approved lots. Staff noted that the request is to modify the mix of uses for the 11.82-acre property located on Fishers Lane, 300 feet southeast of Twinbrook Parkway in North Bethesda-North Garrett Park. Staff also discussed the list of revised conditions distributed at the meeting.

Ms. Patricia Harris, attorney representing the applicant, introduced members of the applicant's team. Ms. Harris briefly discussed the proposed revised conditions requesting modifications to condition 6, and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and the applicant's representative.

10. Preliminary Plan No. 11994066A, Marsden Tract – Lot 11

R-200 zone; 3.81 acres; 8 lots previously approved for 8 one-family detached residential dwellings; request to modify the previously approved forest conservation plan to remove conservation easement; located on MacArthur Boulevard, 1,000 feet northeast of Canal Bridge Court; Potomac.

Staff recommendation: Denial

BOARD ACTION

Motion: **ROBINSON/ALFANDRE**

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Contrary to staff recommendation for denial, approved the proposed request to modify the previously approved forest conservation plan, subject to conditions, including replanting/reforestation at a 2/1 ratio by the applicant, and issuance of a new record plat reflecting a 3-foot easement from the base of the existing stonewall.

In keeping with the June 4 detailed technical staff report, Development Review and Environmental Planning Divisions staff presented the request to modify the previously approved Forest Conservation Plan to remove conservation easement for eight lots previously approved for eight one-family detached residential dwelling units on a 3.81-acre property located on MacArthur Boulevard, 1,000 feet northeast of Canal Bridge Court in Potomac. Staff extensively discussed the proposed plan and stated that staff recommends denial of the proposed request to modify the previously approved forest conservation plan based on non-conformance with forest conservation regulations.

Ms. Anne Martin attorney representing the applicant, introduced members of the applicant's team, extensively discussed the proposed request, and added that the applicant was not aware that there was a conservation easement on the property at the time of purchase.

At the Board's request, Legal Counsel to the Board noted that the Board can add an additional condition requiring replanting/reforestation by the applicant, and the issuance of a new record plat reflecting the approved amendment.

There followed extensive Board discussion with questions to staff and the applicant's representative.

11. Speaker Series: Ronald Kirby, Metropolitan Washington Council of Governments

Analyzing Alternative Transportation, Land Use and Greenhouse Gas Scenarios for Greater Washington

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received presentation from Mr. Ronald Kirby of the Metropolitan Washington Council of Governments.